THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION No.17164 OF 2006

ORAL ORDER:

The petitioner seeks a Writ of Certiorari to call for the records relating to the proceedings of the respondent dated 28.7.2006 and to quash the same being arbitrary, illegal and in violation of the principles of natural justice.

It is not in dispute that the petitioner was served with notices in respect of the enquiry initiated under Section 7A of the Employees' Provident Fund and Miscellaneous Provisions Act, 1952 (for short "the Act"). The petitioner submitted its explanation stating that the Act is not applicable to its establishment and, therefore, enquiry initiated is unwarranted. However, the impugned order was passed on 28.7.2006 holding that the petitioner-establishment was covered under the provisions of the Act and, therefore, it is liable to extend EPF benefit to the workers of the establishment. Accordingly, the petitioner was directed to extend EPF benefit to all the workers with effect from 31.1.2001. Aggrieved by the same, the writ petition is filed contending *inter alia*, that the said order was passed without application of mind to the objections raised by the petitioner.

I have heard the learned counsel for both the parties.

Under Section 7B of the Act, any person aggrieved by an order made under Section 7A(1), may seek review of the same on the ground that the said order was made on account of some mistake or error apparent on the face of the record, or for any other sufficient reason.

In the case on hand, it is stated that the petitioner made a representation dated 14.8.2006 to reconsider the matter. The learned counsel appearing for the respondent states that in case the petitioner is aggrieved, he ought to have made an application under Section 7B of the Act seeking review of the order, and the determination made under Section 7A of the Act cannot be reopened on a mere

representation.

Having regard to the facts and circumstances, the writ petition is disposed of granting liberty to the petitioner to file an appropriate application under Section 7B of the Act for review of the order dated 28.7.2006. If any such application is made within two weeks from today, the respondent is directed to consider the same in accordance with law. Till such time, the impugned order dated 28.7.2006 shall not be given effect to. No costs.

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(G. ROHINI, J.)

18th August, 2006
Issue CC in two days.
kgr

THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION No.17164 OF 2006

18th August, 2006.

Between:

M/s Rahamathiya Lorry Transport,
represented by its proprietor – V.S. MD. Hussain,
S/o Kareem Saheb, Tirupathi Road, Kadapa. .. Petitioner.

And

The Assistant Provident Fund Commissioner
And Authority u/Section 7A of the
Employees' Provident Fund and
Miscellaneous Provisions Act, 1952,
Sub-Regional Office, 1/30, R.S.Road, Kadapa. ..
Respondent.